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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6235 OF 2006

Mrs. Vandana Mahadeo Patil ... Petitioner

V/s

The Chairman,
Vidya Vikas Mandal & ors. ... Respondents

Mr. R.S. Apte with Mr. G.M. Savagave for the petitioner.
Mr. A.P. Vanarase, A.G.P. for the respondent No.3.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 9TH AUGUST, 2007.

P.C.:

1. The petition challenges the order of the School Tribunal dated 6.7.2006. By this order, the School Tribunal has dismissed the appeal filed by the petitioner.

2. Prima facie, it appears that the School Tribunal's order is incorrect. Mr. Apte, learned advocate for the petitioner who is present in Court, however, submits that the petitioner will not insist on challenging the order of the School Tribunal if she is declared surplus as of 1997. She undertakes not to claim back wages for the period that she was out of employment. She is also willing to forego her right to claim wages for the

period she is declared surplus and till she is absorbed by another school and, therefore, no financial burden would be caused. Mr. Apte, however, states that the continuity of service of the petitioner may be protected in order that she retains her seniority for the purposes of absorption in another school, fixation of pay and retiral benefits. This appears to be a fair suggestion. In the interest of justice, therefore, the following order is passed :-

O R D E R

(i) The petitioner shall be declared surplus with effect from 30.4.1997. The respondent No.3 shall treat the petitioner as a surplus teacher and direct absorption in any other aided school in accordance with M.E.P.S. Act and the Rules framed thereunder. The petitioner who is present in Court undertakes not to claim back wages as also the wages during the period she is treated surplus and till her absorption in any other aided school.

(ii) The services of the petitioner for the purposes of pay fixation and other benefits, including the retiral benefits, will be treated as continuous in accordance with the Act and the Rules framed thereunder.

3. With these directions, the petition is disposed of.

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